

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MARK RICKNER and HEIDI RICKNER,

Plaintiffs,

v.

ALLSTATE INSURANCE COMPANY,

Defendant.

C19-5857 TSZ

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Defendant's motion for summary judgment, docket no. 54, is DENIED. Defendant Allstate Insurance Company has not met its burden of establishing an absence of genuine disputes of material fact and entitlement to judgment as a matter of law. *See* Fed. R. Civ. P. 56(a).<sup>1</sup>

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<sup>1</sup> Plaintiffs' motion, docket no. 64, to strike Pierce County Sheriff incident reports submitted by defendant in support of its motion, *see* Exs. C–F to Leid Decl. (docket no. 56), is STRICKEN as moot. Even if the statements in the reports are considered for the truth of the matters asserted, they do not, alone or in combination with other evidence, demonstrate, as a matter of law, that plaintiffs "intentionally concealed, engaged in fraud or misrepresented any material fact or circumstance that exist[ed] at the time of [the] loss" at issue. *See* Deluxe Plus Homeowners Policy at 6, Ex. B to Leid Decl. (docket no. 14 at 30). Rather, the reports raise questions of fact concerning whether the "domestic abuse" exception to the "misrepresentation, fraud or concealment" exclusion might apply. *See id.* (indicating that the exclusion "does not apply to covered property damage sustained by an insured person if the property damage was caused by an act of domestic abuse by another insured person").

1 (2) Defendant has filed several documents containing personal identifiers, in  
2 violation of Local Civil Rule 5.2(a). The Court has recently sealed these materials,  
3 docket nos. 56 and 69, but they were available to the public for a sufficient time that they  
4 might have been uploaded to and might now be available on private websites unrelated to  
5 and outside the control of the Court. See [www.pacermonitor.com](http://www.pacermonitor.com); [www.law360.com](http://www.law360.com).

6 (3) If the parties have not already done so, they shall participate in mediation  
7 on or before July 23, 2021, and either they or the mediator shall provide a status report to  
8 the Court by July 30, 2021.

9 (4) The Clerk is directed to send a copy of this Minute Order to all counsel of  
10 record.

11 Dated this 9th day of April, 2021.

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William M. McCool  
Clerk

s/Gail Glass  
Deputy Clerk